

39
ORIGINAL

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

UNION PACIFIC RAILROAD COMPANY,

Petitioner,

vs.

VILLAGE OF SKOKIE, VILLAGE OF
GLENVIEW, VILLAGE OF WILMETTE,
VILLAGE OF NORTHFIELD, VILLAGE OF
NORTHBROOK, COOK COUNTY, and
ILLINOIS DEPARTMENT OF
TRANSPORTATION,

Respondents.

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APR 16 2004

Illinois Commerce Commission
RAIL SAFETY SECTION

T04-0015

RESPONSE OF VILLAGE OF SKOKIE

Now comes the Village of Skokie, Respondent, by and through its Corporation Counsel, J. Patrick Hanley, and in response to the Petition filed by Union Pacific Railroad Company ("UP") states as follows:

BACKGROUND

On August 21, 2002, the Surface Transportation Board (the "STB") issued an order granting UP's request seeking an exemption from the appropriate United States Code sections to:

- (i) abandon operations over a 1.04-mile portion of a line of railroad known as the Skokie Industrial Lead (referred to in the STB proceeding as the "Line"), extending from milepost 12.60 south of Oakton Street, Skokie, to

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the north side of Dempster Street, Skokie, at milepost 13.64 (hereinafter the “South Segment”); and

- (ii) discontinue service over an 8.06-mile portion of the Line from milepost 13.64 to milepost 21.70 near the Village of Northfield (hereinafter the “North Segment”).

The STB Order states that UP “intends to salvage the track structure on the South Segment and dispose of the underlying real estate.” The Order also references that UP intends to railbank the North Segment and the “only salvage activity contemplated on the North Segment is that grade crossings may be removed or paved over as they require replacement or repair.”

The Line passing through Skokie crosses nine different roadways and one dedicated pedestrian pathway (collectively referred to as “Crossings”). The following is a list of the roadways and the pathway (proceeding from south to north) and an indication of the status of each crossing:

- (i) Oakton Street (milepost 12.61) – crossing removed and resurfaced;
- (ii) Searle Parkway (milepost 12.75) – rails in place/rubber;
- (iii) Main Street (milepost 13.12) – crossing removed and resurfaced;
- (iv) Niles Center Road (milepost 13.18) – rails in place/rubber-roadway/timber-pedestrian/flushing lights/overhead lights/cants;
- (v) Pedestrian Path for Skokie Swift (milepost 13.51) – crossing removed and resurfaced;

- (vi) Dempster Street (milepost 13.64) – crossing removed and resurfaced;
- (vii) Gross Point Road (milepost 13.87) – rails in place/rubber;
- (viii) Church Street (milepost 14.15) – crossing removed and resurfaced;
- (ix) Golf Road (milepost 14.67) – rails in place/rubber-roadway/timber-pedestrian/flashing lights/cants/arms/overhead lights; and
- (x) Old Orchard Road (milepost 15.18) – rails in place/flashing lights/cants.

In its Petition before the Illinois Commerce Commission (the “Commission”), UP states that in the interest of safety and public nuisance all related signal systems on the Line have been turned off and no longer operate. UP recommends that the signal material be removed and allocated to other railroad activities to the extent possible.

The UP seeks an exemption of all Crossings on the Line from Sections 5/11-1202 and 18c-7401 of the Illinois Vehicle Code. UP notes that exempting the Crossings from the application of Section 5/11-1202 would provide for a better flow of vehicular traffic and improve safety by avoiding rear-end collisions with school buses, fuel trucks and other regulated vehicles. UP concludes that:

Exempting the Crossings will have a favorable impact on the public convenience and necessity in that the track and crossing surface on the Crossings will be removed and replaced with appropriate roadway surface and all necessary crossing signal equipment will be hooded and eventually removed. Removal of the tracks, crossing surface and crossing signal equipment will improve public safety and eliminate the unsafe and unsightly abandoned and discontinued signal equipment. Petition, pg 5.

SKOKIE'S POSITION

Skokie does not object to UP's petition to remove and replace the Crossings. Skokie's position, simply stated, is that: (i) all rails and crossing surfaces, whether rubber, timber or asphalt, must be removed and the roadways resurfaced; (ii) all equipment, whether flashing lights, cants, control boxes, overhead lights and poles, associated with all Crossings must be removed; and (iii) all debris resulting from the removals must be cleared and removed from the Line's right of way. All work on removing the Crossings and equipment and the clearing of the sites should be accomplished at UP's sole expense. The removals should be accomplished within sixty days of the Commission's order permitting the removals.

Skokie does object to leaving the equipment in place. Even if the equipment is hooded, it will cause confusion and the improvement to public safety, promoted in UP's Petition, will not be realized. Leaving the non-operational equipment in place would create a public nuisance. The equipment will be unsightly, as UP acknowledges in its Petition.

In relation to the nine roadway Crossings, several Crossings have already been removed and some equipment has been dismantled and removed. Skokie has borne the complete costs of removal of three of the Crossings and the resurfacing of the roadway. The Oakton Street (milepost 12. 61) Crossing was removed and resurfaced in the mid to late 1980's. The Main Street (milepost 13.12) Crossing was removed completely by Skokie on or about May 30, 2003, at a cost to Skokie of Thirty Six Thousand Six Hundred and Thirty Four Dollars (\$36,634). The Dempster Street (milepost 13.64) Crossing was removed and resurfaced completely by Skokie on or about August 23, 2003, at a cost to Skokie of Fifteen Thousand and Thirty Five Dollars (\$15,035). The Church

Street (milepost 14.15) Crossing was removed and resurfaced by the County of Cook in July of 2003. The Pedestrian Path (milepost 13.51) Crossing for access to the Skokie Swift Chicago Transit Authority station was removed in 2003 and the walkway has been replaced by Skokie.

Although, the above removals and resurfacings have already taken place, all without any cost to UP, debris, material from the removals and equipment associated with the Crossings remain in the Line's right of way adjacent to the referenced public ways as more detailed below. It is requested that UP be ordered to immediately remove said debris, material and equipment in the interests of public safety.

CONDITIONS AT EACH CROSSING

The Village respectfully requests the Commission to issue an order requiring UP to take the following actions within sixty days, at its sole expense, in relation to each Crossing:

- A. Oakton Street. No relief requested.
- B. Searle Parkway. See Exhibit A, attached hereto (the Affidavit of William J. Bablitz is attached hereto attesting that he took the photographs listed as Exhibits A through Z herein on April 2, 2004).
 - 1. Remove the rails and the rubber surface.
 - 2. Resurface the roadway, install curbs and gutters and restore parkways and sidewalks at the Crossing location.
 - 3. Haul all debris from the removal from the site.
 - 4. Extract and remove the control box on south side, light post base on north side and remove wooden pole and fence base lying in right of way.

- C. Main Street. No relief requested.
- D. Niles Center Road. See Exhibits B, C and D.
1. Remove rails, rubber surface and timbers.
 2. Resurface roadway, install curbs and gutters and restore parkways and sidewalks.
 3. Remove all equipment, including lights, cants, poles and bases.
 4. Haul all debris from the removal from the site.
- E. Pedestrian Path. See Exhibits E, F and G.
1. Remove all equipment, including lights, cants, poles, control box and bases.
 2. Haul all debris from removal from site.
 3. Remove debris, including rails and ties currently littering right of way.
- F. Dempster Street. See Exhibits H, I, J and K.
1. Remove all equipment and debris, including rails, timbers, ties currently littering site.
 2. Remove control box and base from the site.
- G. Gross Point Road. See Exhibits L, M, N and O.
1. Remove rails and rubber surface.
 2. Resurface roadway, install curbs and gutters and restore parkways and sidewalk on east side.
 3. Remove all equipment, including lights, pole and control box and bases.
 4. Haul all debris from removals away from site.
- H. Church Street. See Exhibits P, Q and R.

1. Remove poles, lights, equipment and debris currently littering site.
 2. Remove control box and base from site.
- I. Golf Road. See Exhibits S, T and U.
1. Remove rails and rubber surface from roadway.
 2. Remove rails and timber from south side sidewalk.
 3. Resurface roadway, install curbs and gutters and restore parkways and sidewalk.
 4. Remove all equipment, including lights, poles, gates, cants, control box and bases.
 5. Haul all debris from site.
- J. Old Orchard. See Exhibits V, W, X, Y and Z.
1. Remove all rails and excess asphalt.
 2. Remove rail from under sidewalk on north side.
 3. Resurface roadway, install curbs and gutters and restore parkways and sidewalk.
 4. Remove all equipment, including lights, poles, cants control box and bases.
 5. Haul all debris from removals away from site.

In addition, public safety would be promoted by the removal of all track, including rails and ties, and all equipment in the abandoned portion of the Line. The Village of Skokie requests that the Commission issue an order requiring UP to: remove all track, including rails, ties and associated equipment, from the right of way of the abandoned portion of the Line; restore the area with top soil and seed it and properly maintain the area.

Respectfully Submitted
Village of Skokie

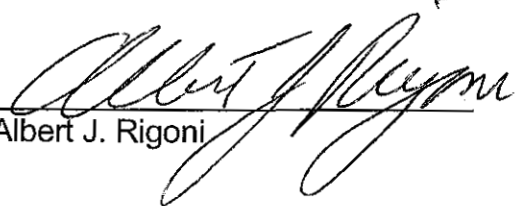
By: 

Corporation Counsel

J. Patrick Hanley
Corporation Counsel
Village of Skokie
5127 Oakton Street
Skokie, Illinois 60077
(847) 933-8270
Attorney No: 34205

VERIFICATION OF FACTS

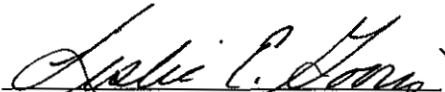
Being first duly sworn, I, Albert J. Rigoni, certify that I am the Village Manager of the Village of Skokie, that the statements of fact set forth in the foregoing Response are made in reliance upon documentation contained in the records of the Village of Skokie, that they are true and correct to the best of my information and belief, and that I verily believe the same to be true.


Albert J. Rigoni

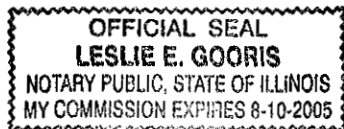
State of Illinois)
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County of Cook)

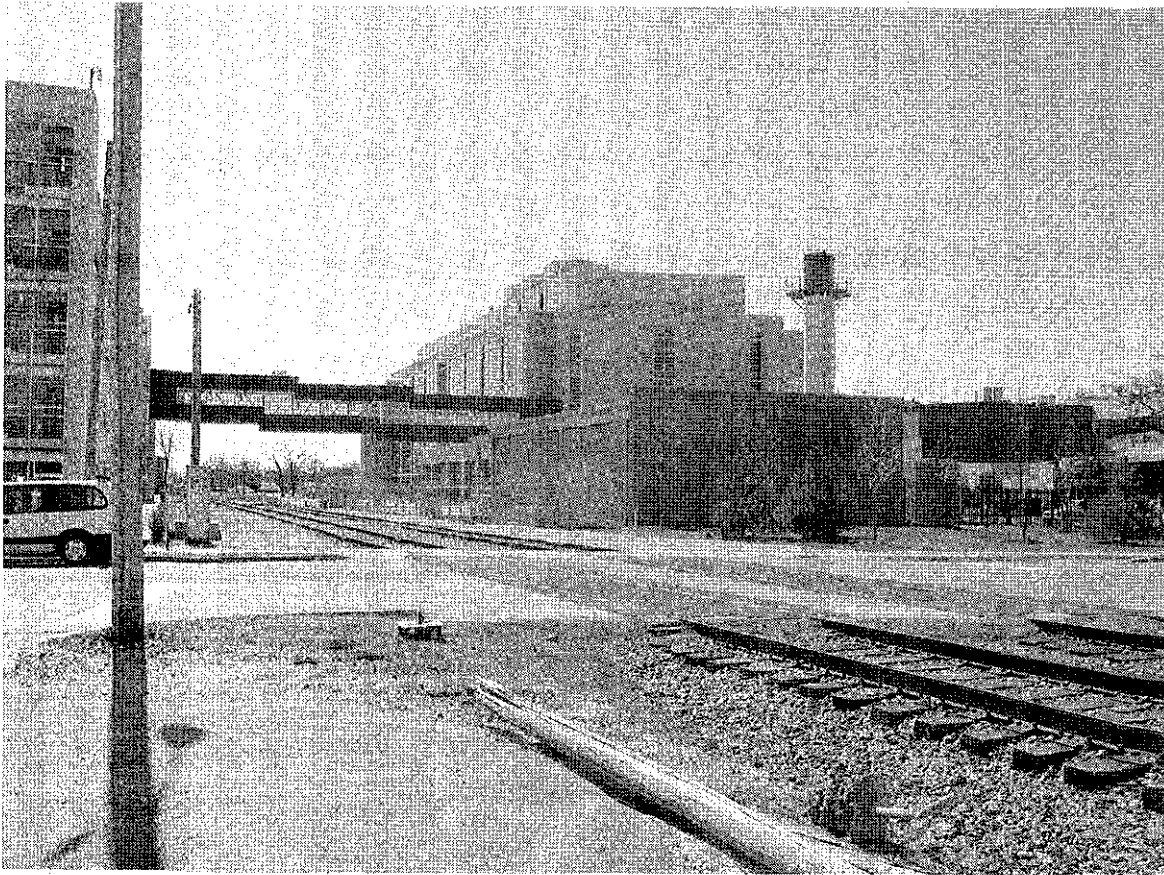
Subscribed and Sworn to
before me this

13th day of April, 2004:

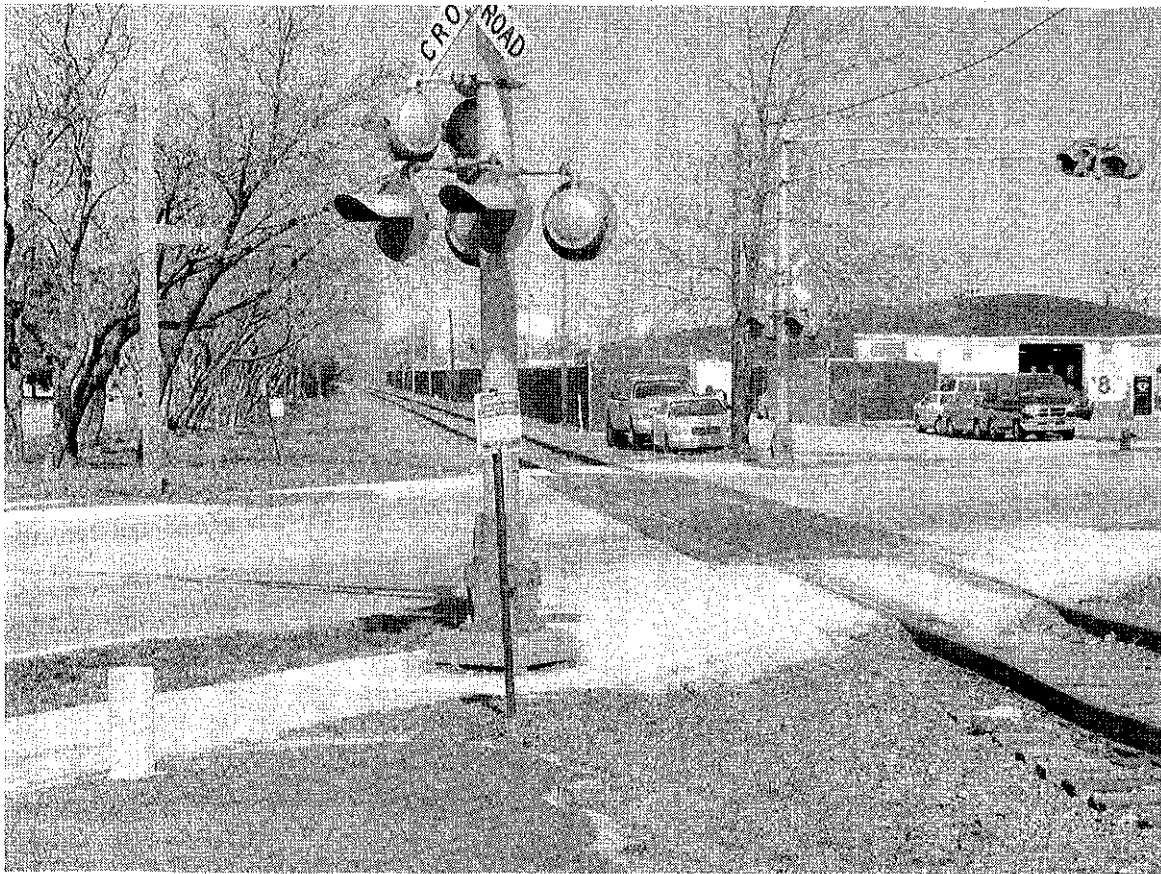

Notary Public

Seal:





SEARLE PARKWAY & UNION PACIFIC RAILROAD CROSSING
SKOKIE ILLINOIS
LOOKING SOUTH



NILES CENTER ROAD & UNION PACIFIC RAILROAD CROSSING
SKOKIE ILLINOIS
LOOKING NORTH